

## 2011 Final Rankings

The following table contains offenses which were modified by Act 570 during the 88th General Assembly. These are the offenses the Arkansas Sentencing Commission ranked on June 10, 2011. **These rankings became final on July 18, 2011.** If you have any questions, please contact the Arkansas Sentencing Commission at: 501-682-5001 (phone) or 501-682-5018 (fax).

### ACT 570 MODIFIED OFFENSES

ACT	STATUTE	TITLE	FELONY CLASS	PRELIMINARY RANKING
570	5-36-103 (b) (1) (A)	<u>Theft of Property.</u> (b) Theft of property is a: (1) Class B felony if: (A) the value of property is twenty-five thousand dollars (\$25,000) or more. (See p.20)	B	<b>6</b>
570	5-36-103 (b) (2) (A)	<u>Theft of Property.</u> (b) Theft of property is a: (2) Class C felony if: (A) the value of property is less than twenty-five thousand dollars (\$25,000) but more than five thousand dollars (\$5,000). (See p.21)	C	<b>4</b>
570	5-36-103 (b) (2) (C)	<u>Theft of Property.</u> (b) Theft of property is a: (2) Class C felony if: (C) the property is a firearm valued at two thousand five hundred dollars (\$2,500) or more. (See p.21)	C	<b>3</b>
570	5-36-103 (b) (2) (D)	<u>Theft of Property.</u> (b) Theft of property is a: (2) Class C felony if: (D)(i) the property is building material obtained from a permitted construction site and the value of the building material is five hundred dollars (\$500) or more. (ii) As used in subdivision (b)(2)(D)(i) of this section: (a) "building material" means lumber, a construction tool, a window, a door, copper tubing or wire, or any other material or good used in the construction or rebuilding of a building or a structure; and (b) "permitted construction site" means the site of construction, alteration, painting, or repair of a building or a structure for which a building permit has been issued by a city of the first class, a city of the second class, an incorporated town, or a county. (See p.22)	C	<b>4</b>

ACT	STATUTE	TITLE	FELONY CLASS	PRELIMINARY RANKING
570	5-36-103 (b) (2) (E)	<u>Theft of Property.</u> (b) Theft of property is a: (2) Class C felony if: (E) the value of the property is five hundred dollars (\$500) or more and the theft occurred in an area declared to be under a state of emergency pursuant to proclamation by the President of the United States, the Governor, or the executive officer of a city or county. (See p.22)	C	5
570	5-36-103 (b) (3) (A)	<u>Theft of Property.</u> (b) Theft of property is a: (3) Class D felony if: (A) The value of the property is five thousand dollars (\$5,000) or less but more than one thousand dollars (\$1,000). (See p.22)	D	2
570	5-36-103 (b) (3) (B)	<u>Theft of Property.</u> (b) Theft of property is a: (3) Class D felony if: (B) The property is a firearm valued at less than two thousand five hundred dollars (\$2,500). (See p.22)	D	3
570	5-36-103 (b) (3) (C)	<u>Theft of Property.</u> (b) Theft of property is a: (3) Class D felony if: (C) The property is a: (i) Credit card or credit card account number; or (ii) Debit card or debit card account number. (See p.22)	D	3
570	5-36-103 (b) (3) (D)	<u>Theft of Property.</u> (b) Theft of property is a: (3) Class D felony if: (D) The value of the property is at least one hundred dollars (\$100) or more but less than five hundred dollars (\$500) and the theft occurred in an area declared to be under a state of emergency pursuant to proclamation by the President of the United States, the Governor, or the executive officer of a city or county. (See p.22)	D	4
570	5-36-103 (b) (3) (E)	<u>Theft of Property.</u> (b) Theft of property is a: (3) Class D felony if: (E) The property is livestock and the value of the livestock is in excess of two hundred dollars (\$200). (See p.23)	D	3
570	5-36-104 (c) (1) (A)	<u>Theft of Services.</u> (c) Theft of services is a: (1) Class B felony if: (A) The value of the service is twenty-five thousand dollars (\$25,000) or more. (See p.24)	B	6

ACT	STATUTE	TITLE	FELONY CLASS	PRELIMINARY RANKING
570	5-36-104 (c) (2) (A)	<u>Theft of Services.</u> (c) Theft of services is a: (2) Class C felony if: (A) The value of the service is less than twenty-five thousand dollars (\$25,000) but more than five thousand dollars (\$5,000). (See p.24)	C	4
570	5-36-104 (c) (3)	<u>Theft of Services.</u> (c) Theft of services is a: (3) Class D felony if the value of the service is five thousand dollars (\$5,000) or less but more than one thousand dollars (\$1,000). (See p.24)	D	2
570	5-36-106 (e) (1)	<u>Theft by Receiving.</u> (e) Theft by receiving is a: (1) Class B felony if the value of the property is twenty-five thousand dollars (\$25,000) or more. (See p.25)	B	6
570	5-36-106 (e) (2)	<u>Theft by Receiving.</u> (e) Theft by receiving is a: (2) Class C felony if the value of the property is less than twenty-five thousand dollars (\$25,000) but more than five thousand dollars (\$5,000). (See p.25)	C	4
570	5-36-106 (e) (3) (A)	<u>Theft by Receiving.</u> (e) Theft by receiving is a: (3) Class D felony if: (A) the value of the property is five thousand dollars (\$5,000) or less but more than one thousand dollars (\$1,000). (See p.25)	D	2
570	5-36-106 (e) (3) (B)	<u>Theft by Receiving.</u> (e) Theft by receiving is a: (3) Class D felony if: (B) The property is a: (i) Credit card or credit card account number; or (ii) Debit card or debit card account number. (See p.25)	D	3
570	5-36-303 (b) (2) (A)	<u>Theft of Wireless Services.</u> (b) Theft of wireless services is a: (2) Class D felony if the: (A) Aggregate value of wireless service obtained is five thousand dollars (\$5,000) or less but more than one thousand dollars (\$1,000). (See p.25)	D	2

ACT	STATUTE	TITLE	FELONY CLASS	PRELIMINARY RANKING
570	5-36-303 (b)(2) (B)	<u>Theft of Wireless Services.</u> (b) Theft of wireless services is a: (2) Class D felony if the: (B) Stolen wireless service is used to communicate a threat of damage or injury by bombing, fire, or other means, in a manner likely to: (i) Place another person in reasonable apprehension of physical injury to himself or herself or another person or of damage to his or her property or to the property of another person; or (ii) Create a public alarm. (See p.25)	D	4
570	5-36-303 (b)(3)(A)	<u>Theft of Wireless Services.</u> (b) Theft of wireless services is a: (3) Class C felony if the: (A) Aggregate value of wireless service is more than five thousand dollars (\$5,000) but less than twenty-five thousand dollars (\$25,000). (See p.26)	C	4
570	5-36-303 (b)(3)(B)	<u>Theft of Wireless Services.</u> (b) Theft of wireless services is a: (3) Class C felony if the: (B) Conviction is for a second or subsequent offense. (See p.26)	C	4
570	5-36-303 (b)(3)(C)	<u>Theft of Wireless Services.</u> (b) Theft of wireless services is a: (3) Class C felony if the: (C) Person convicted of the offense has been previously convicted of any similar crime in this or any other state or federal jurisdiction. (See p.26)	C	4
570	5-36-303 (b)(4)	<u>Theft of Wireless Services.</u> (b) Theft of wireless services is a: (4) Class B felony if the aggregate value of the wireless service is twenty-five thousand dollars (\$25,000) or more. (See p.26)	B	6
570	5-37-207 (b)(1)	<u>Fraudulent Use of a Credit Card or Debit Card.</u> (b) Fraudulent use of a credit card or debit card is a: (1) Class B felony if the value of all moneys, goods, or services obtained during any six-month period is twenty-five thousand dollars (\$25,000) or more. (See p.26)	B	6
570	5-37-207 (b)(2)	<u>Fraudulent Use of a Credit Card or Debit Card.</u> (b) Fraudulent use of a credit card or debit card is a: (2) Class C felony if the value of all moneys, goods, or services obtained during any six-month period is less than twenty-five thousand dollars (\$25,000) but more than five thousand dollars (\$5,000). (See p.26)	C	4

ACT	STATUTE	TITLE	FELONY CLASS	PRELIMINARY RANKING
570	5-37-207 (b)(3)	<u>Fraudulent Use of a Credit Card or Debit Card.</u> (b) Fraudulent use of a credit card or debit card is a: (3) Class D felony if the value of all moneys, goods, or services obtained during any six-month period is five thousand dollars (\$5,000) or less but more than one thousand dollars (\$1,000). (See p.26)	D	2
570	5-37-305 (b)(1)(A)	<u>Penalties (Arkansas Hot Check Law).</u> (b)(1) Making, uttering, or delivering one (1) or more instruments or transactions drawn on insufficient funds or drawn on a nonexistent account is a Class B felony if: (A) the amount of any one (1) instrument or transaction is twenty-five thousand dollars (\$25,000) or more. (See p.27)	B	6
570	5-37-305 (b)(1)(B)	<u>Penalties (Arkansas Hot Check Law).</u> (b)(1) Making, uttering, or delivering one (1) or more instruments or transactions drawn on insufficient funds or drawn on a nonexistent account is a Class B felony if: (B) More than one (1) instrument or transaction has been drawn within a ninety-day period, each instrument or transaction is in an amount less than twenty-five thousand dollars (\$25,000), and the total amount of all such instruments or transactions is twenty-five thousand dollars (\$25,000) or more. (See p.27)	B	6
570	5-37-305 (b)(2)(A)	<u>Penalties (Arkansas Hot Check Law).</u> (b)(2) Making, uttering, or delivering one (1) or more instruments or transactions drawn on insufficient funds or drawn on nonexistent accounts is a Class C felony if: (A) the amount of any one (1) instrument or transaction is twenty-five thousand dollars (\$25,000) but more than five thousand dollars (\$5,000). (See p.28)	C	4
570	5-37-305 (b)(2)(B)	<u>Penalties (Arkansas Hot Check Law).</u> (b)(2) Making, uttering, or delivering one (1) or more instruments or transactions drawn on insufficient funds or drawn on nonexistent accounts is a Class C felony if: (B) More than one (1) instrument or transaction has been drawn within a ninety-day period, each instrument or transaction is in an amount less than twenty-five thousand dollars (\$25,000) but more than five thousand dollars (\$5,000), and the total amount of all such instruments or transactions is less than twenty-five thousand dollars (\$25,000) but more than five thousand dollars (\$5,000). (See p.28)	C	4

ACT	STATUTE	TITLE	FELONY CLASS	PRELIMINARY RANKING
570	5-37-305 (b)(3)(A)	<u>Penalties (Arkansas Hot Check Law).</u> (b)(3) Making, uttering, or delivering one (1) or more instruments or transactions drawn on insufficient funds or drawn on nonexistent accounts is a Class D felony if: (A) the amount of any one (1) instrument or transaction is five thousand dollars (\$5,000) or less but more than one thousand dollars (\$1,000). (See p.28)	D	2
570	5-37-305 (b)(3)(B)	<u>Penalties (Arkansas Hot Check Law).</u> (b)(3) Making, uttering, or delivering one (1) or more instruments or transactions drawn on insufficient funds or drawn on nonexistent accounts is a Class D felony if: (B) More than one (1) instrument or transaction has been drawn within a ninety-day period, each instrument or transaction is in an amount of five thousand dollars (\$5,000) or less but more than one thousand dollars (\$1,000), and the total amount of all such instruments or transactions is five thousand dollars (\$5,000) or less but more than one thousand dollars (\$1,000). (See p.28)	D	2
570	5-38-203 (b)(2)	<u>Criminal Mischief in the First Degree.</u> (b) Criminal mischief in the first degree is a: (2) Class D felony if the amount of actual damage is more than one thousand dollars (\$1,000) but five thousand dollars (\$5,000) or less. (See p. 29)	D	2
570	5-38-203 (b)(3)	<u>Criminal Mischief in the First Degree.</u> (b) Criminal mischief in the first degree is a: (3) Class C felony if the amount of actual damage is more than five thousand dollars (\$5,000) but less than twenty-five thousand dollars (\$25,000). (See p.29)	C	4
570	5-38-203 (b)(4)	<u>Criminal Mischief in the First Degree.</u> (b) Criminal mischief in the first degree is a: (4) Class B felony if the amount of actual damage is twenty-five thousand dollars (\$25,000) or more. (See p.29)	B	6
570	5-38-204 (b)(2)	<u>Criminal Mischief in the Second Degree.</u> (b) Criminal mischief in the second degree is a: (2) Class D felony if the amount of actual damage is five thousand dollars (\$5,000) or more. (See p.29)	D	3

ACT	STATUTE	TITLE	FELONY CLASS	PRELIMINARY RANKING
570	5-64-402 (a) & (b)(1)	<u>Offenses relating to records, maintaining premises, etc.</u> (a) It is unlawful for a person to: (1) refuse entry into premises for any inspection authorized by this chapter or (2) knowingly to keep or maintain any store, shop, warehouse, dwelling, building, or other structure or place or premise that is resorted to by a person for the purpose of using or obtaining a controlled substance in violation of this chapter that is used for keeping a controlled substance in violation of this chapter. (b) Violation is a Class C felony. (See p.36)	C	5
570	5-64-402 (b)(2) & (c)	<u>Offenses relating to records, maintaining premises, etc. - Drug free zone.</u> • (c) Amends the list of certified drug free zones to add: publicly funded & administered multifamily housing development, drug or alcohol treatment facility, day care center, church, and shelter. • (b)(2) If the violation is committed on or within 1,000 feet of a certified drug free zone, person is guilty of a Class B felony. (See p. 37)	B	7
570	5-64-403 (a)(1) - (a)(4) & (b)(1)	<u>Controlled substances – Fraudulent practices.</u> (a) It is unlawful for a person to knowingly: (1) distribute as a practitioner a Schedule I or II controlled substance except under an order form; (2) acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, subterfuge, or theft; (3) furnish false or fraudulent material information in or omit material information from any record, application, report, or other document required to be kept or filed under this chapter; (4) make, distribute or possess any punch, die, plate, stone or other thing designed to print, imprint, or reproduce the trademark, trade name or other identifying mark, imprint or device of another person or any likeness of any trademark, etc., upon any drug or container or labeling of a drug or container so as to render the drug a counterfeit substance. (b) (1) Violation of (a)(1) – (a)(4) is a Class D felony. (See p.40)	D	3
570	5-64-403 (a)(5)(A) & (b)(2)(A)	<u>Controlled substances – Fraudulent practices.</u> (a) It is unlawful for a person to knowingly: (5) (A) agree, consent, or in any manner offer to unlawfully sell, furnish, transport, administer, or give any controlled substance to any person or arrange for any action described in this subdivision and then to substitute a noncontrolled substance in lieu of the controlled substance bargained for. (b)(2)(A) Violation of (a)(5) is a Class C felony if the noncontrolled substance is represented to be a controlled substance classified in Schedule I or II. (See p.41)	C	4

ACT	STATUTE	TITLE	FELONY CLASS	PRELIMINARY RANKING
570	5-64-403 (a)(5)(A) & (b)(2)(B)	<u>Controlled substances – Fraudulent practices.</u> (a) It is unlawful for a person to knowingly: (5) (A) agree, consent, or in any manner offer to unlawfully sell, furnish, transport, administer, or give any controlled substance to any person or arrange for any action described in this subdivision and then to substitute a noncontrolled substance in lieu of the controlled substance bargained for. (b)(2)(B) Violation of (a)(5) is a Class D felony if the noncontrolled substance is represented to be a controlled substance classified in Schedule III, Schedule IV, or Schedule V. (See p.41)	D	4
570	5-64-419 (b)(1)(A)	<u>Possession of a controlled substance.</u> (b)(1) Possession of Schedule I or II controlled substance that is methamphetamine or cocaine. (A) less than 2 g = D felony. (See p. 47)	D	3
570	5-64-419 (b)(1)(B)	<u>Possession of a controlled substance.</u> (b)(1) Possession of Schedule I or II controlled substance that is methamphetamine or cocaine. (B) Possession of 2 g or more but less than 10 g = C felony. (See p. 47)	C	4
570	5-64-419 (b)(1)(C)	<u>Possession of a controlled substance.</u> (b)(1) Possession of Schedule I or II controlled substance that is methamphetamine or cocaine. (C) Possession of 10 g or more but less than 200 g = B felony. (See p. 47)	B	5
570	5-64-419 (b)(2)(A)	<u>Possession of a controlled substance.</u> (b)(2) Possession of Schedule I or II controlled substance that is <u>not</u> methamphetamine or cocaine. (A) Possession of less than 2 g = D felony. (See p.47)	D	3
570	5-64-419 (b)(2)(B)	<u>Possession of a Controlled Substance.</u> (b)(2) Possession of Schedule I or II controlled substance that is <u>not</u> methamphetamine or cocaine. (B) Possession of 2 g or more but less than 28 g = C felony. (See p.47)	C	4



ACT	STATUTE	TITLE	FELONY CLASS	PRELIMINARY RANKING
570	5-64-419 (b)(2)(C)	<u>Possession of a Controlled Substance.</u> (b)(2) Possession of Schedule I or II controlled substance that is <u>not</u> methamphetamine or cocaine. (C) Possession of 28 g or more but less than 200 g = B felony. (See p.47)	B	5
570	5-64-419 (b)(3)(B)	<u>Possession of a controlled substance.</u> (b)(3) Possession of a Schedule III controlled substance. (b)(3)(B) Possession of 2 g or more but less than 28 g = D felony. (See p.47)	D	3
570	5-64-419 (b)(3)(C)	<u>Possession of a controlled substance.</u> (b)(3) Possession of a Schedule III controlled substance. (C) Possession of 28 g or more but less than 200 g = C felony. (See p.47)	C	4
570	5-64-419 (b)(3)(D)	<u>Possession of a controlled substance.</u> (b)(3) Possession of a Schedule III controlled substance. (D) Possession of 200 g or more but less than 400 g = B felony. (See p.47)	B	5
570	5-64-419 (b)(4)(B)	<u>Possession of a controlled substance.</u> (b)(4) Possession of a Schedule IV or V controlled substance. (B) Possession of 28 g or more but less than 200 g = D felony. (See p.48)	D	3
570	5-64-419 (b)(4)(C)	<u>Possession of a controlled substance.</u> (b)(4) Possession of a Schedule IV or V controlled substance. (C) Possession of 200 g or more but less than 400 g = C felony. (See p.48)	C	4
570	5-64-419 (b)(4)(D)	<u>Possession of a controlled substance.</u> (b)(4) Possession of a Schedule IV or V controlled substance. (D) Possession of 400 g or more but less than 800 g = B felony. (See p.48)	B	5

ACT	STATUTE	TITLE	FELONY CLASS	PRELIMINARY RANKING
570	5-64-419 (b)(5)(ii)	<u>Possession of a controlled substance.</u> (b)(5) Possession of a Schedule VI controlled substance. (ii) Possession of 1 oz or more but less than 4 oz and the person has 2 previous convictions under this section or the former 5-64-401(c) = D felony. (See p.48)	D	3
570	5-64-419 (b)(5)(iii)	<u>Possession of a controlled substance.</u> (b)(5) Possession of a Schedule VI controlled substance. (iii) Possession of 4 oz or more but less than 10 lbs = D felony. (See p.48)	D	3
570	5-64-419 (b)(5)(iv)	<u>Possession of a controlled substance.</u> (b)(5) Possession of a Schedule VI controlled substance. (iv) Possession of 10 lbs or more but less than 25 lbs = C felony. (See p.48)	C	5
570	5-64-419 (b)(5)(v)	<u>Possession of a controlled substance.</u> (b)(5) Possession of a Schedule VI controlled substance. (v) Possession of 25 lbs or more but less than 100 lbs = B felony. (See p.48)	B	6
570	5-64-419 (b)(5)(vi)	<u>Possession of a controlled substance.</u> (b)(5) Possession of a Schedule VI controlled substance. (vi) Possession of 100 lbs or more but less than 500 lbs = A felony. (See p.48)	A	7
570	5-64-420 (b)(1)	<u>Possession of methamphetamine or cocaine with purpose to deliver.</u> (b)(1) Possession of less than 2 g = C felony. (See p.49)	C	6
570	5-64-420 (b)(2)	<u>Possession of methamphetamine or cocaine with purpose to deliver.</u> (b)(2) Possession of 2 g or more but less than 10 g = B felony. (See p.49)	B	6
570	5-64-420 (b)(3)	<u>Possession of methamphetamine or cocaine with purpose to deliver.</u> (b)(3) Possession of 10 g or more but less than 200 g = A felony. (See p.49)	A	7

ACT	STATUTE	TITLE	FELONY CLASS	PRELIMINARY RANKING
570	5-64-422 (b)(1)	<u>Delivery of methamphetamine or cocaine.</u> (b)(1) Delivery of less than 2 g = C felony. (See p.49)	C	6
570	5-64-422 (b)(2)	<u>Delivery of methamphetamine or cocaine.</u> (b)(2) Delivery of 2 g or more but less than 10 g = B felony. (See p.49)	B	7
570	5-64-422 (b)(3)	<u>Delivery of methamphetamine or cocaine.</u> (b)(3) Delivery of 10 g or more but less than 200 g = Y felony (See p.50)	Y	7
570	5-64-423 (a)(2)(A)	<u>Manufacture of methamphetamine/cocaine.</u> <i>Methamphetamine:</i> Manufacture of less than 2 g = C felony. (See p.50)	C	6
570	5-64-423 (a)(2)(B)(i)	<u>Manufacture of methamphetamine/cocaine.</u> <i>Methamphetamine:</i> Manufacture of 2 g or more = Y felony. (See p.50)	Y	7
570	5-64-423 (a)(2)(B)(ii)	<u>Manufacture of methamphetamine/cocaine.</u> <i>Methamphetamine:</i> A person who manufactures 2 g or more is guilty of an A felony if the person shows by a preponderance of the evidence that he or she manufactured the methamphetamine for personal use. (See p.50)	A	7
570	5-64-423 (a)(3)	<u>Manufacture of methamphetamine/cocaine.</u> <i>Methamphetamine:</i> One or more prior convictions of manufacturing methamphetamine in any amount under this section or former 5-64-401 = Y felony. (See p.50)	Y	8
570	5-64-423 (b)(2)(A)	<u>Manufacture of methamphetamine/cocaine.</u> <i>Cocaine:</i> Manufacture less than 2 g = C felony. (See p.51)	C	6
570	5-64-423 (b)(2)(B)	<u>Manufacture of methamphetamine/cocaine.</u> <i>Cocaine:</i> Manufacture 2 g or more but less than 10 g = B felony (See p.51)	B	7

ACT	STATUTE	TITLE	FELONY CLASS	PRELIMINARY RANKING
570	5-64-423 (b)(2)(C)	<u>Manufacture of methamphetamine/cocaine.</u> <i>Cocaine:</i> Manufacture 10 g or more but less than 200 g = Y felony (See p.51)	Y	<b>7</b>
570	5-64-424 (b)(1)	<u>Possession of a Schedule I or Schedule II controlled substance that is NOT methamphetamine/cocaine with purpose to deliver.</u> (b)(1) Possession of less than 2 g of Schedule I or Schedule II controlled substance not methamphetamine/cocaine = C felony. (See p.52)	C	<b>4</b>
570	5-64-424 (b)(2) (A) - (E)	<u>Possession of a Schedule I or Schedule II controlled substance that is NOT methamphetamine/cocaine with purpose to deliver.</u> (b)(2) Possession of any of the following results in a B felony: (A) 2 g or more but less than 28 g of a Schedule I or II controlled substance that is not methamphetamine, cocaine, or a controlled substance listed in this subdivision; (B) 80 or more but less than 160 dosage units of hydromorphone hydrochloride; (C) 80 or more but less than 160 dosage units of Lysergic Acid Diethylamide (LSD); (D) 80 or more but less than 160 dosage units but not more than 200 g for any other Schedule I or II depressant or hallucinogenic drug; (E) 80 or more but less than 160 dosage units but not more than 200 g for any other Schedule I or II stimulant drug. (See p.52)	B	<b>5</b>
570	5-64-424 (b)(3) (A) - (E)	<u>Possession of a Schedule I or Schedule II controlled substance that is NOT methamphetamine/cocaine with purpose to deliver.</u> (b)(3) Possession of any of the following results in a Class A felony (A) 28 g or more but less than 200 g of a Schedule I or II controlled substance that is not methamphetamine, cocaine, or a controlled substance listed in this subdivision; (B) 128 mg or more or 160 dosage units or more but less than 200 g of hydromorphone hydrochloride; (C) 1,600 micrograms or more or 160 dosage units or more but less than 200 g of Lysergic Acid Diethylamide (LSD); (D) 160 dosage units or more regardless of weight but less than 200 g for any other Schedule I or II depressant or hallucinogenic drug; (E) 160 dosage units or more regardless of weight but less than 200 g for any other Schedule I or II stimulant drug. (See p.53)	A	<b>6</b>

ACT	STATUTE	TITLE	FELONY CLASS	PRELIMINARY RANKING
570	5-64-426 (c)(1)	<u>Delivery of a Schedule I or Schedule II controlled substance that is NOT methamphetamine/cocaine.</u> (c)(1) Delivery of less than 2 g = C felony. (See p.53)	C	4
570	5-64-426 (c)(2) (A) - (E)	<u>Delivery of a Schedule I or Schedule II controlled substance that is NOT methamphetamine/cocaine.</u> (c)(2) Delivery of any of the following results in a Class B felony: (A) 2 g or more but less than 28 g of a Schedule I or II controlled substance that is not methamphetamine, cocaine, or a controlled substance listed in this subdivision; (B) 80 or more but less than 160 dosage units of hydromorphone hydrochloride; (C) 80 or more but less than 160 dosage units of Lysergic Acid Diethylamide (LSD); (D) 80 or more but less than 160 dosage units but not more than 200 g for any other Schedule I or II depressant or hallucinogenic drug; (E) 80 or more but less than 160 dosage units but not more than 200 g for any other Schedule I or Schedule II stimulant drug. (See p.53)	B	5
570	5-64-426 (c)(3) (A) - (E)	<u>Delivery of a Schedule I or Schedule II controlled substance that is NOT methamphetamine/cocaine.</u> (c)(3) Delivery of any of the following results in a Class A felony: (A) 28 g or more but less than 200 g of a Schedule I or II controlled substance that is not methamphetamine, cocaine, or a controlled substance listed in this subdivision; (B) 160 dosage units or more but less than 200 g of hydromorphone hydrochloride; (C) 160 dosage units or more but less than 200 g of Lysergic Acid Diethylamide (LSD); (D) 160 dosage units or more regardless of weight but less than 200 g for any other Schedule I or II depressant or hallucinogenic drug; (E) 160 dosage units or more regardless of weight but less than 200 g for any other Schedule I or II stimulant drug. (See p.54)	A	6
570	5-64-427 (c)(1)	<u>Manufacture of a Schedule I or Schedule II controlled substance that is NOT methamphetamine/cocaine.</u> (c)(1) Manufacture of less than 2 g = C felony. (See p.54)	C	4

ACT	STATUTE	TITLE	FELONY CLASS	PRELIMINARY RANKING
570	5-64-427 (c)(2) (A) - (E)	<u>Manufacture of a Schedule I or Schedule II controlled substance that is NOT methamphetamine/cocaine.</u> (c)(2) Manufacture of any of the following results in a Class B felony: (A) 2 g or more but less than 28 g of a Schedule I or Schedule II controlled substance that is not methamphetamine, cocaine, or a controlled substance listed in this subdivision; (B) 80 or more but less than 160 dosage units of hydromorphone hydrochloride; (C) 80 or more but less than 160 dosage units of Lysergic Acid Diethylamide (LSD); (D) 80 or more but less than 160 dosage units for any other Schedule I or II depressant or hallucinogenic drug regardless of weight; (E) 80 or more but less than 160 dosage units for any other Schedule I or II stimulant drug regardless of weight. (See p.54)	B	5
570	5-64-427 (c)(3)	<u>Manufacture of a Schedule I or Schedule II controlled substance that is NOT methamphetamine/cocaine.</u> (c)(3) Manufacture of any of the following results in a Class A felony: (A) 28 g or more of a Schedule I or Schedule II controlled substance that is not methamphetamine, cocaine, or a controlled substance listed in this subdivision; (B) 160 dosage units or more of hydromorphone hydrochloride; (C) 160 dosage units or more of Lysergic Acid Diethylamide (LSD); (D) 160 dosage units or more regardless of weight for any other Schedule I or II depressant or hallucinogenic drug; (E) 160 dosage units or more regardless of weight for any other Schedule I or II stimulant drug. (See p.55)	A	6
570	5-64-428 (b)(1) (A) - (C)	<u>Possession of a Schedule III controlled substance with the purpose to deliver.</u> (b)(1) Possession of any of the following results in a Class C felony: (A) Less than 28 g of a Schedule III controlled substance that is not a controlled substance listed in this subdivision; (B) 40 or more but less than 80 dosage units for any other Schedule III depressant or hallucinogenic drug; (C) 40 or more but less than 80 dosage units for any other Schedule III stimulant drug. (See p.56)	C	4

ACT	STATUTE	TITLE	FELONY CLASS	PRELIMINARY RANKING
570	5-64-428 (b)(2) (A) - (C)	<u>Possession of a Schedule III controlled substance with the purpose to deliver.</u> (b)(2) Possession of any of the following results in a Class B felony: (A) 28 g or more but less than 200 g of a Schedule III controlled substance that is not a controlled substance listed in this subdivision; (B) 80 or more but less than 160 dosage units for any other Schedule III depressant or hallucinogenic drug; (C) 80 or more but less than 160 dosage units for any other Schedule III stimulant drug. (See p.56)	B	5
570	5-64-428 (b)(3) (A) - (C)	<u>Possession of a Schedule III controlled substance with the purpose to deliver.</u> (b)(3) Possession of any of the following results in a Class A felony: (A) 200 g or more but less than 400 g of a Schedule III controlled substance not a controlled substance listed in this subdivision; (B) 160 dosage units or more for any other Schedule III depressant or hallucinogenic drug; (C) 160 dosage units or more for any other Schedule III stimulant drug. (See p.56)	A	6
570	5-64-430 (b)(1)	<u>Delivery of a Schedule III controlled substance.</u> (b)(1) Delivery of less than 28 g = C felony. (See p.57)	C	4
570	5-64-430 (b)(2)	<u>Delivery of a Schedule III controlled substance.</u> (b)(2) Delivery of 28 g or more but less than 200 g = B felony. (See p.57)	B	5
570	5-64-430 (b)(3)	<u>Delivery of a Schedule III controlled substance.</u> (b)(3) Delivery of 200 g or more but less than 400 g = A felony. (See p.57)	A	6
570	5-64-431 (b)(1)	<u>Manufacture of a Schedule III controlled substance.</u> (b)(1) Manufacture of less than 28 g = C felony. (See p.57)	C	4
570	5-64-431 (b)(2)	<u>Manufacture of a Schedule III controlled substance.</u> (b)(2) Manufacture of 28 g or more but less than 200 g = B felony. (See p.57)	B	5
570	5-64-431 (b)(3)	<u>Manufacture of a Schedule III controlled substance.</u> (b)(3) Manufacture of 200 g or more = A felony. (See p.58)	A	6

ACT	STATUTE	TITLE	FELONY CLASS	PRELIMINARY RANKING
570	5-64-432 (b)(1) (A) - (C)	<u>Possession of a Schedule IV or Schedule V controlled substance with the purpose to deliver.</u> (b)(1) Possession of any of the following results in a Class D felony: (A) Less than 200 g of a Schedule IV or Schedule V controlled substance that is not a controlled substance listed in this subdivision; (B) 40 or more but less than 80 dosage units for any other Schedule IV or Schedule V depressant or hallucinogenic drug; (C) 40 or more but less than 80 dosage units for any other Schedule IV or Schedule V stimulant drug. (See p.58)	D	3
570	5-64-432 (b)(2) (A) - (C)	<u>Possession of a Schedule IV or Schedule V controlled substance with the purpose to deliver.</u> (b)(2) Possession of any of the following results in a Class C felony: (A) 200 g or more but less than 400 g of a Schedule IV or Schedule V controlled substance that is not a controlled substance listed in this subdivision; (B) 80 or more but less than 160 dosage units for any other Schedule IV or Schedule V depressant or hallucinogenic drug; (C) 80 or more but less than 160 dosage units for any other Schedule IV or Schedule V stimulant drug. (See p.59)	C	4
570	5-64-432 (b)(3) (A) - (C)	<u>Possession of a Schedule IV or Schedule V controlled substance with the purpose to deliver.</u> (b)(3) Possession of any of the following is a Class B felony: (A) 400 g or more but less than 800 g of a Schedule IV or Schedule V controlled substance that is not a controlled substance listed in this subdivision; (B) 160 dosage units or more but less than 800 g for any other Schedule IV or Schedule V depressant or hallucinogenic drug; (C) 160 dosage units or more but less than 800 g for any other Schedule IV or Schedule V stimulant drug. (See p.59)	B	5
570	5-64-434 (b)(1)	<u>Delivery of a Schedule IV or Schedule V controlled substance.</u> (b)(1) Delivery of less than 200 g = D felony. (See p.59)	D	3
570	5-64-434 (b)(2)	<u>Delivery of a Schedule IV or Schedule V controlled substance.</u> (b)(2) Delivery of 200 g or more but less than 400 g = C felony. (See p.60)	C	4



ACT	STATUTE	TITLE	FELONY CLASS	PRELIMINARY RANKING
570	5-64-434 (b)(3)	<u>Delivery of a Schedule IV or Schedule V controlled substance.</u> (b)(3) Delivery of 400 g or more but less than 800 g = B felony. (See p.60)	B	5
570	5-64-435 (b)(1)	<u>Manufacture of a Schedule IV or Schedule V controlled substance.</u> (b)(1) Manufacturing less than 200 g = D felony. (See p.60)	D	3
570	5-64-435 (b)(2)	<u>Manufacture of a Schedule IV or Schedule V controlled substance.</u> (b)(2) Manufacturing 200 g or more but less than 400 g = C felony. (See p.60)	C	4
570	5-64-435 (b)(3)	<u>Manufacture of a Schedule IV or Schedule V controlled substance.</u> (b)(3) Manufacturing 400 g or more = B felony. (See p.60)	B	5
570	5-64-436 (b)(2)	<u>Possession of a Schedule VI controlled substance with the purpose to deliver.</u> (b)(2) More than 14 g but less than 4 oz = D felony. (See p.61)	D	3
570	5-64-436 (b)(3)	<u>Possession of a Schedule VI controlled substance with the purpose to deliver.</u> (b)(3) 4 oz or more but less than 25 lbs = C felony. (See p.61)	C	4
570	5-64-436 (b)(4)	<u>Possession of a Schedule VI controlled substance with the purpose to deliver.</u> (b)(4) 25 lbs or more but less than 100 lbs = B felony. (See p.61)	B	5
570	5-64-436 (b)(5)	<u>Possession of a Schedule VI controlled substance with the purpose to deliver.</u> (b)(5) 100 lbs or more but less than 500 lbs = A felony. (See p.61)	A	7
570	5-64-438 (b)(2)	<u>Delivery of a Schedule VI controlled substance.</u> (b)(2) More than 14 g but less than 4 oz = D felony. (See p.62)	D	3
570	5-64-438 (b)(3)	<u>Delivery of a Schedule VI controlled substance.</u> (b)(3) 4 oz or more but less than 25 lbs = C felony. (See p.62)	C	4

ACT	STATUTE	TITLE	FELONY CLASS	PRELIMINARY RANKING
570	5-64-438 (b)(4)	<u>Delivery of a Schedule VI controlled substance.</u> (b)(4) 25 lbs of more but less than 100 lbs = B felony. (See p.62)	B	5
570	5-64-438 (b)(5)	<u>Delivery of a Schedule VI controlled substance.</u> (b)(5) 100 lbs or more but less than 500 lbs = A felony. (See p.62)	A	7
570	5-64-439 (b)(2)	<u>Manufacture of a Schedule VI controlled substance.</u> (b)(2) More than 14 g but less than 4 oz = D felony. (See p.62)	D	3
570	5-64-439 (b)(3)	<u>Manufacture of a Schedule VI controlled substance.</u> (b)(3) 4 oz or more but less than 25 lbs = C felony. (See p.62)	C	4
570	5-64-439 (b)(4)	<u>Manufacture of a Schedule VI controlled substance.</u> (b)(4) 25 lbs or more but less than 100 lbs = B felony. (See p.63)	B	5
570	5-64-439 (b)(5)	<u>Manufacture of a Schedule VI controlled substance.</u> (b)(5) 100 lbs or more = A felony. (See p.63)	A	7
570	5-64-440 (b) & (c)	<u>Trafficking a controlled substance.</u> (b) A person engages in trafficking if he or she possesses a controlled substance in the following amounts: (1) Methamphetamine or cocaine = 200 g or more; (2) Schedule I or Schedule II controlled substance that is not methamphetamine or cocaine = 200 g or more; (3) Schedule III controlled substance = 400 g or more; (4) Schedule IV or V controlled substance = 800 g or more; (5) Schedule VI controlled substance = 500 lbs or more. (c) Trafficking = Y felony. (See. p.63)	Y	8
570	5-64-441 (b)(1)	<u>Possession of a counterfeit substance (without a prescription or order or as otherwise authorized).</u> (b)(1) Violation of this chapter with respect to a Schedule I or II controlled substance = D felony. (See p.64)	D	3

ACT	STATUTE	TITLE	FELONY CLASS	PRELIMINARY RANKING
570	5-64-441 (b)(3)	<u>Possession of a counterfeit substance (without prescription or order or as otherwise authorized).</u> (b)(3) Violation of this chapter with respect to any other controlled substance, 3rd or subsequent offense = D felony. (See p.64)	D	3
570	5-64-442 (b)(1)	<u>Delivery or manufacture of a counterfeit substance.</u> (b)(1) Delivery or manufacturing a counterfeit substance purporting to be a Schedule I or II controlled substance = C felony (See p.64)	C	3
570	5-64-442 (b)(2)	<u>Delivery or manufacture of a counterfeit substance.</u> (b)(2) Delivery or manufacturing a counterfeit substance purporting to be a Schedule III controlled substance = D felony. (See p.64)	D	3
570	5-64-443 (a)(2)	<u>Drug Paraphernalia.</u> (a)(2) Possession of drug paraphernalia with the purpose to use the drug paraphernalia to inject, ingest, inhale, or otherwise introduce into the human body a controlled substance and the controlled substance is methamphetamine or cocaine = D felony. (See p.64)	D	3
570	5-64-443 (b)	<u>Drug Paraphernalia.</u> (b) Use or possession with the purpose to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled substance that is methamphetamine or cocaine = B felony. (See p.65)	B	6
570	5-64-443 (c)	<u>Drug Paraphernalia.</u> (c) Use or possession with the purpose to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled substance a controlled substance that is <u>not</u> methamphetamine or cocaine = D felony. (Note: controlled substance in the last line is repeated in the text of the Act) (See p.65)	D	3
570	5-64-444 (a)	<u>Drug paraphernalia – Delivery to a minor.</u> (a) A person 18 or older who violates 5-64-443 by delivering drug paraphernalia in the course of and in furtherance of a felony violation of this chapter to a person under 18 who is at least 3 years younger than the person = B felony. (See p.65)	B	5

ACT	STATUTE	TITLE	FELONY CLASS	PRELIMINARY RANKING
570	5-64-445	<u>Advertisement of a counterfeit substance or drug paraphernalia.</u> Placing in any newspaper, magazine, handbill, or any publication, any advertisement knowing or under circumstances in which a person reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of a counterfeit substance or of an object designed or intended for use as drug paraphernalia = C felony. (See p.66)	C	3
570	5-64-1102 (a)(1) & (a)(2)(A)	<u>Possession with purpose to manufacture – Unlawful distribution.</u> (a)(1) Possession of ephedrine, pseudoephedrine, phenylpropanolamine or their salts, optical isomers, or salts of optical isomers with purpose to manufacture methamphetamine is: (2)(A) D felony: if quantity is capable of producing 10 g or less of methamphetamine. (See p.68)	D	2
570	5-64-1102 (a)(1) & (a)(2)(B)	<u>Possession with purpose to manufacture – Unlawful distribution.</u> (a)(1) Possession of ephedrine, pseudoephedrine, phenylpropanolamine or their salts, optical isomers, or salts of optical isomers with purpose to manufacture methamphetamine is: (2)(B) B felony: if quantity is capable of producing more than 10 g of methamphetamine. (See p.68)	B	4
570	5-64-1102 (b)(1) & (b)(2)	<u>Possession with purpose to manufacture – Unlawful distribution.</u> (b)(1) Possession of ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, optical isomers, or salts of optical isomers in a quantity capable of producing 28 g or more of a Schedule I or II controlled substance that is a narcotic drug or methamphetamine with purpose to manufacture methamphetamine is: (2) B felony. (See p.68)	B	5

The following offenses were <u>not</u> amended by Act 570 but both reference the penalty provision in Theft of Property, which was amended by Act 570. Accordingly, the seriousness level has been modified for each of these provisions.				
n/a	5-36-115	<u>Theft of leased, rented, or entrusted personal property - False report of wealth or credit.</u> A person convicted under this code provision is subject to punishment prescribed in 5-36-103. Act 570 modified 5-36-103, thus the rankings for this offense are amended as set out here.	B C D	6 4 2
n/a	5-36-123	<u>Theft of scrap metal.</u> A person convicted under this code provision is subject to punishment prescribed in 5-36-103. Act 570 modified 5-36-103, thus the rankings for this offense are amended as set out here.	B C D	6 4 2

## 2011 Final Rankings

The following table contains offenses which were modified during the 88th General Assembly. These are the offenses the Arkansas Sentencing Commission ranked on June 10, 2011. **These rankings became final on July 18, 2011.** If you have any questions, please contact the Arkansas Sentencing Commission at: 501-682-5001 (phone) or 501-682-5018 (fax).

### MODIFIED OFFENSES

ACT	STATUTE	TITLE	FELONY CLASS	PRELIMINARY RANKING
207	5-55-501 (b) & (c)	<u>Lottery Fraud.</u> (b) A person commits lottery fraud if he or she: (1) falsely makes, alters, forges, utters, passes, or counterfeits a ticket or share in a lottery with a purpose to defraud the Arkansas Lottery Commission; or (2) purposely influences the winning of a lottery prize through the use of coercion, fraud, deception, or tampering with lottery equipment or materials. (c) D felony.	D	2
277	5-13-211 (a) & (b)	<u>Aggravated Assault upon a certified law enforcement officer or an employee of a correctional facility.</u> (a) Amends current law by: • adding certified law enforcement officer to the provision; • adding the requirement that the actor must know the person to be a certified law enforcement officer or employee of a correctional facility; • adding language that the actor must have purposely caused contact with saliva, blood, urine, feces, seminal fluid, or other bodily fluid; • adds that the actor may “otherwise transfer” the fluid as a method of causing contact. (b) D felony.	D	3
1003	5-60-101 (a)(2) & (b)	<u>Abuse of a corpse.</u> (a)(2)Amends current law by: (A) Including the knowing concealment of a corpse in a manner offensive to a person of reasonable sensibilities; (B) adds language that states that concealing a corpse in a manner offensive to a person of reasonable sensibilities, which results in the corpse remaining concealed is continuing in a course of conduct; and (C) defines “in a manner offensive to a person of reasonable sensibilities,” which includes dismembering, submerging, or burning a corpse. (b) D felony.	D	3

ACT	STATUTE	TITLE	FELONY CLASS	PRELIMINARY RANKING
1023	5-14-129 (a)(2)	<u>Registered offender working with children prohibited.</u> (a) A person required to register under the Sex Offender Registration Act of 1997, 12-12-901 et seq., and who has been assessed as a Level 3 or Level 4 offender is prohibited from knowingly: (2) accepting work as a self-employed person, an independent contractor, or an employee or agent of a self-employed person or independent contractor that is to be performed at a private daycare facility when the private owned daycare facility has in its care a child.	D	4
1129	5-14-125 (a) (6) & (b)(1)	<u>Sexual assault in the second degree.</u> Amends current law by adding to the list of individuals who can be convicted of sexual assault in the second degree: (a) A person commits sexual assault in the second degree if the person is: (6) a teacher, principal, athletic coach, or counselor in a public school in a grade kindergarten through twelve (K-12) and engages in sexual contact with another person who is (A) a student enrolled in the public school, and (B) less than 21 years of age. (b)(1) B felony.	B	6
1158	5-60-101 (b)	<u>Abuse of a Corpse – Penalty.</u> Amends current law by raising the penalty found under (b) from a D felony to a C felony. (b) Abuse of a corpse is a Class C felony.	C	3

ACT	STATUTE	TITLE	FELONY CLASS	PRELIMINARY RANKING
1168	5-13-202 (a)(4)	<u>Battery in the second degree.</u> Amends current law by adding “incapacitates” to the method in which a person may commit battery in the second degree: (a) A person commits battery in the second degree if: (4) The person knowingly, without legal justification, causes physical injury to or incapacitates a person he or she knows to be: (A)(i) a law enforcement officer, firefighter, or employee of a correctional facility while the law enforcement officer, firefighter, code enforcement officer, or employee of a correctional facility is acting in the line of duty; (B) A teacher or other school employee while acting in the course of employment; (C) An individual 60 years of age or older or 12 years of age or younger; (D) An officer or employee of the state while the officer or employee of the state is acting in the performance of his or her lawful duty; (E) While performing medical treatment or emergency medical services or while in the course of other employment relating to his or her medical training: (i) physician, (ii) person licensed as emergency medical services personnel, as defined in 20-13-202; (iii) licensed or certified health care professional; or (iv) any other health care provider; or (F) An individual who is incompetent, as defined in 5-25-101.	D	4
1177	5-26-503 (a) & (b)	<u>Interference with custody.</u> Amends current law by adding “keeps” as a course of conduct in which a person may commit the offense of interference with custody. (a) Person commits the offense of interference of custody if without lawful authority he or she knowingly takes, entices, or keeps, or aids, abets, hires, or otherwise procures another person to take, entice, or keep any minor from the custody of: (1) the parent of the minor including an unmarried woman having legal custody of an illegitimate child under 9-10-113; (2) the guardian of the minor; (3) public agency having lawful charge of the minor; (4) any other lawful custodian. (b) C felony.	C	3

ACT	STATUTE	TITLE	FELONY CLASS	PRELIMINARY RANKING
1224	12-12-212 (a) & (b)	<u>Release or disclosure to unauthorized person – Penalty.</u> (a) Person who (1) knowingly accesses information or willfully obtains information collected and maintained under this subchapter for a purpose not specified by this subchapter, or (2) knowingly releases or discloses information maintained under this subchapter to another person who lacks authority to receive the information = A misdemeanor. (b) A person who violates section (a) for the purpose of (1) furthering the commission of a misdemeanor offense or felony offense by the person or another person; (2) enhancing or assisting a person's position in a legal proceeding in this state or influencing the outcome of a legal proceeding in this state for the benefit of the person or a member of the person's family; (3) causing a pecuniary or professional gain for the person or a member of the person's family; or (4) political purposes for the person or a member of the person's family = D felony.	D	1
1224	12-12-1002 (b) & (c)	<u>Concerning penalties for crime reporting and investigations.</u> (b) Person who (1) knowingly accesses information or willfully obtains information collected and maintained under this subchapter for a purpose not specified by this subchapter, or (2) knowingly releases or discloses information maintained under this subchapter to another person who lacks authority to receive the information = A misdemeanor. (c) A person who violates section (a) for the purpose of (1) furthering the commission of a misdemeanor offense or felony offense by the person or another person; (2) enhancing or assisting a person's position in a legal proceeding in this state or influencing the outcome of a legal proceeding in this state for the benefit of the person or a member of the person's family; (3) causing a pecuniary or professional gain for the person or a member of the person's family; or (4) political purposes for the person or a member of the person's family = D felony.	D	1
1227	5-36-103	<u>Theft of property.</u> Amends current law by adding: (G)(i) theft of utility property, (G)(ii)(a) definition of utility and (G)(ii)(b) definition of utility property. (b)(1) Theft of property is a B felony if: (G)(i) The property is utility property and the value of the property is \$500 or more.	B	5



## 2011 Final Rankings

The following table contains offenses which were created during the 88th General Assembly. These are the offenses the Arkansas Sentencing Commission ranked on June 10, 2011. **These rankings became final on July 18, 2011.** If you have any questions, please contact the Arkansas Sentencing Commission at: 501-682-5001 (phone) or 501-682-5018 (fax).

### NEW OFFENSES

ACT	STATUTE	TITLE	FELONY CLASS	PRELIMINARY RANKING
172	5-37-226 (a) & (b)(1)(B)	<p><u>Filing instruments affecting title or interest in real property.</u></p> <p>(a) A person with the knowledge of the instrument's lack of authenticity or genuineness to have placed of record in the office of the county recorder or the office of the Secretary of State any instrument: (1) clouding or adversely affecting title or interest of the true owner, lessee, or assignee in real property or any bona fide interest in real property; (2) with the purpose of clouding, adversely affecting, impairing, or discrediting the title or other interest in the real property which may prevent the true owner, lessee, or assignee from disposing of the real property or transferring or granting any interest in the real property or procuring money or value from the true owner, lessee or assignee to clear the instrument from the records of the office of the county recorder or the office of the Secretary of State.</p> <p>(b)(1)(B) Person with a previous conviction under (b)(1)(A) [misd provision], second or subsequent offense = D felony.</p>	D	2

ACT	STATUTE	TITLE	FELONY CLASS	PRELIMINARY RANKING
172	5-37-226 (a) & (b)(2)	<p><u>Filing instruments affecting title or interest in real property.</u></p> <p>(a) A person with the knowledge of the instrument's lack of authenticity or genuineness to have placed of record in the office of the county recorder or the office of the Secretary of State any instrument: (1) clouding or adversely affecting title or interest of the true owner, lessee, or assignee in real property or any bona fide interest in real property; (2) with the purpose of clouding, adversely affecting, impairing, or discrediting the title or other interest in the real property which may prevent the true owner, lessee, or assignee from disposing of the real property or transferring or granting any interest in the real property or procuring money or value from the true owner, lessee or assignee to clear the instrument from the records of the office of the county recorder or the office of the Secretary of State.</p> <p>(b)(2) Person who violates (a) because of the performance of official duties by the victim and the victim is: (A) judge or other court personnel; (B) prosecuting attorney or deputy prosecuting attorney, (C) state, county, or municipal law enforcement officer or jailer; (D) employee of the Department of Correction; (E) employee of the Department of Community Correction; (F) judge, prosecuting attorney, deputy prosecuting attorney, law enforcement officer, or jailer from another state, District of Columbia, Commonwealth of Puerto Rico, or a territory of the U.S.; (G) person elected to a federal, state, or local position; or (H) person employed by the Attorney General = C felony.</p>	C	2
204	17-16-115(a)	<p><u>Criminal Penalties (RE: Athlete Agents).</u></p> <p>(a) Athlete agent who violates 17-16-114(a) = D felony</p> <p>[17-16-114(a), Prohibited conduct by athlete agents: An athlete agent, with the intent to induce a student-athlete to enter into an agency contract may not: (1) give any materially false or misleading information or make a materially false promise or representation; (2) furnish a good or service of value or arrange for a good or service of value to be furnished to a student-athlete before the student-athlete enters into the agency contract; or (3) furnish a good or service of value or arrange for a good or service of value to be furnished to any individual other than the student athlete or another registered athlete.]</p> <p>(See p.4)</p>	D	1
304	20-7-611 (b)(1) & (b)(2)	<p><u>Unlawful acts and penalties (RE: Prescription Drug Monitoring Program Act).</u></p> <p>(b)(1) It is unlawful for a dispenser to purposely submit fraudulent prescription information.</p> <p>(b)(2) Violation = D felony.</p> <p>(See p.10)</p>	D	2

ACT	STATUTE	TITLE	FELONY CLASS	PRELIMINARY RANKING
304	20-7-611 (c)(1) & (c)(2)	<u>Unlawful acts and penalties (RE: Prescription Drug Monitoring Program Act).</u> (c)(1) It is unlawful for a person authorized to receive prescription monitoring information to purposely disclose the information in violation of this subchapter. (c)(2) Violation = C felony. (See p.10)	C	3
304	20-7-611 (d)(1) & (d)(2)	<u>Unlawful acts and penalties (RE: Prescription Drug Monitoring Program Act).</u> (d)(1) It is unlawful for a person authorized to receive prescription drug monitoring program information to use such information in a manner or for a purpose in violation of this subchapter. (d)(2) Violation = C felony. (See p.10)	C	3
304	20-7-611 (e)(1) & (e)(2)	<u>Unlawful acts and penalties (RE: Prescription Drug Monitoring Program Act).</u> (e)(1) It is unlawful for a person to knowingly obtain, use, or disclose, or attempt to obtain, use, or disclose information by fraud or deceit from the Prescription Drug Monitoring Program or from a person authorized to receive information from the Prescription Drug Monitoring Program under this subchapter. (e)(2) Violation = C felony. (See p.10)	C	3
697	5-26-204 (b) & (c)(1)	<u>Defrauding a prospective adoptive parent.</u> (b) A person commits the offense of defrauding a prospective adoptive parent if he or she: (1) knowingly obtains a financial benefit from a prospective adoptive parent or from an agent of a prospective adoptive parent with a purpose to defraud the prospective adoptive parent or the agent of the prospective adoptive parent of the financial benefit; and (2) does not (A) consent to the adoption, or (B) complete the adoption process. (c)(1) B felony = aggregate financial benefit is \$2,500 or more or the person has a previous conviction under this section.	B	4
697	5-26-204 (b) & (c)(2)	<u>Defrauding a prospective adoptive parent.</u> (b) A person commits the offense of defrauding a prospective adoptive parent if he or she: (1) knowingly obtains a financial benefit from a prospective adoptive parent or from an agent of a prospective adoptive parent with a purpose to defraud the prospective adoptive parent or the agent of the prospective adoptive parent of the financial benefit; and (2) does not (A) consent to the adoption, or (B) complete the adoption process. (c)(2) C felony = aggregate financial benefit is \$500 or more but less than \$2,500.	C	3

ACT	STATUTE	TITLE	FELONY CLASS	PRELIMINARY RANKING
816	5-14-133 (b) & (c)	<u>Registered offender prohibited from entering a water park owned or operated by a local government.</u> (b) A person required to register under the Sex Offender Registration Act of 1997, 12-12-901 et seq., and who has been assessed as a Level 3 or Level 4 offender is prohibited from knowingly entering a water park owned or operated by a local government. (c) Violation =D felony.	D	3
836	26-57-245 (a)(1)	<u>Unstamped products or products with unpaid taxes – Purchase, sale, receipt, etc., a criminal offense – Deceptive trade practice.</u> (a) Except as authorized by this subchapter, a person who knowingly purchases, sells, offers for sale, receives, possesses, or transports upon his or her person, on his or her premises, or in his or her vehicle any cigarettes that do not have affixed thereon the stamps required by this subchapter, or any other tobacco products upon which the taxes imposed by this subchapter have not been paid is guilty of a criminal offense. (1) If the tax value of the total amount of tobacco products is equal to or exceeds \$100 = C felony. (See p.17)	C	2
836	26-57-263 (b)(1) & (b)(3)(A)	<u>Cigarette inputs – Cigarette rolling machines.</u> (b)(1) A person licensed, permitted, appointed, or commissioned under this subchapter and a person that directly or indirectly controls a person licensed, permitted, appointed, or commissioned under this subchapter shall not possess or otherwise utilize a cigarette rolling machine. (b)(3)(A) A person who violates (b)(1) is guilty of a criminal offense; if the tax value of any cigarettes produced by means of the cigarette rolling machine is \$100 or more = C felony. (See p.19)	C	2
1193	5-36-124 (b) & (c)(1)(A)	<u>Theft by receiving of scrap metal.</u> (b) Person commits the offense of theft by receiving of scrap metal if he or she receives, retains, or disposes of scrap metal of another person knowing that the scrap metal was stolen. (c)(1)(A) If the value of the scrap metal is more than \$1,000 = D felony.	D	2
1193	5-36-124 (b) & (c)(2)	<u>Theft by receiving of scrap metal.</u> (b) Person commits the offense of theft by receiving of scrap metal if he or she receives, retains, or disposes of scrap metal of another person knowing that the scrap metal was stolen. (c)(2) Person who is found guilty of or pleads guilty or nolo contendere to a second or subsequent violation of this section = D felony.	D	2

## 2011 Final Rankings

The following table contains offenses which were omitted during previous ranking meetings. These are the offenses the Arkansas Sentencing Commission ranked on June 10, 2011. **These rankings became final on July 18, 2011.** If you have any questions, please contact the Arkansas Sentencing Commission at: 501-682-5001 (phone) or 501-682-5018 (fax).

### OMITTED OFFENSES

ACT	STATUTE	TITLE	FELONY CLASS	PRELIMINARY RANKING
N/A	5-37-510 (e)(2)	<u>Unauthorized copying or sale of recordings.</u> (e)(2) Class D felony for the following: an offense involving 100 or more sound recordings or 7 or more audiovisual recordings; or a subsequent offense involving 100 sound recordings or fewer than 7 audiovisual recordings.	D	1
N/A	5-52-101 (a) & (c)	<u>Abuse of public trust.</u> (a) Person commits abuse of a public trust if the person: (1) solicits, accepts, or agrees to accept on behalf of any person, political party, or other organization any benefit from another person upon agreement or understanding that the other person will or may be appointed a public servant or designated or nominated as a candidate for public office; (2) offers, confers, or agrees to confer any benefit and the receipt of the benefit is prohibited by this section; (3) solicits, accepts, or agrees to accept any benefit as compensation or consideration for having as a public servant given a decision, opinion, recommendation, or vote favorable to another or for having otherwise exercised his or her discretion in favor of another; or (4) offers, confers, or agrees to confer any benefit upon a public servant and the receipt of the benefit is prohibited by this section. (c) Violation = D felony.	D	3
N/A	20-32-103 (a)	<u>Disposal of commercial medical waste – Penalties.</u> (a) Any person who violates a provision of this chapter = Felony (subject to imprisonment for not more than 1 year, fine of not more than \$25,000, or both).	Felony	1
N/A	26-18-201 (a)	<u>Attempt to evade or defeat tax.</u> (a) Willfully attempting to evade or defeat the payment of any tax, penalty, or interest due under any state tax law = C felony.	C	2
N/A	26-18-201 (b)	<u>Attempt to evade or defeat tax.</u> (b) Willfully assisting a taxpayer in evading or defeating the payment of any tax, penalty, or interest due under any state tax law = C felony.	C	2

ACT	STATUTE	TITLE	FELONY CLASS	PRELIMINARY RANKING
590	20-17-1018 (a)(1) & (b)	<u>Violations, criminal penalties, and remedies (RE: Cemeteries) .</u> (a)(1) It is unlawful for any person to advertise or operate all or part of a cemetery as a perpetual care cemetery or permanent maintenance cemetery without holding a valid permit issued by the Arkansas Cemetery Board. (b) Violation = Felony (punishable by a fine of not more than \$10,000 or imprisonment in the state penitentiary for not more than 6 years, or both). (See p.8)	Felony	<b>1</b>